

PUBLIC COMMENT EMAIL RECEIVED BY THE WATER COURT ON JUNE 20, 2011

To the Honorable Judge Loble:

It was my understanding that Senator Brendan and the Water Adjudication Advisory Committee were interested in public opinion involving the "exempt right/vested right" question.

I am writing briefly to say that I support the position made in great detail by Ron and Maxine Korman. In any of the old Montana statutes, water court decisions, law dictionary quotes, and state and federal supreme court rulings that I have studied, there is repeated mention of vested rights. In many cases those rights are specifically said to also apply on federally administered land. However, except for a few mentions that vested water rights shall not be impaired, etc., current Montana code post 1973 makes almost no mention of vested rights and at least some of the information coming out of the DNRC is that no rights can be considered vested. The material that I have studied (I can send references if need be, but Maxine Korman has doubtless provided a very detailed list of citations) all seems to indicate that vested rights were recognized prior to 1973. I would like to know where they have gone, if they have in fact disappeared, and if a right can legally evaporate like that.

Secondly, I have found no avenue to include rights that were exempted from filing requirements in the adjudication. Everything I have seen and heard states that this is in fact impossible. Also, everything that I have seen and heard indicates that an adjudication that does not include all parties is invalid. I can't imagine that Montana would spend the amount of time and money that has already gone into the water adjudication on an invalid adjudication.

I apologize that I was unable to polish my thoughts with several drafts and include references and citations. I hope this is sufficient to serve as a record of my concerns as an affected Montana citizen.

Sincerely,

Sierra Dawn Stoneberg Holt